

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

BARBARA BROWN

PLAINTIFF

v.

Case No. 4:08-cv-89-DPM

**THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA**

INTERVENOR-DEFENDANT

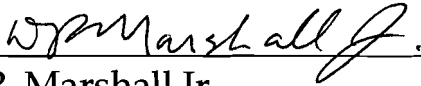
ORDER

Motion for discovery, *Document No. 137*, denied. Generally, district court review in ERISA cases is limited to the evidence that was before the administrator. *Jones v. ReliaStar Life Insurance Co.*, 615 F.3d 941, 945 (8th Cir. 2010). In *Metropolitan Life Insurance Co. v. Glenn*, the Supreme Court held that a conflict of interest exists when an administrator both evaluates and pays claims. The Court further held that this conflict is a factor to be considered in determining whether there was an abuse of discretion. 554 U.S. 105 (2008). The Eighth Circuit has not yet decided whether *Glenn* affected the usual discovery limitations under ERISA. *Chronister v. Unum Life Insurance Co. of America*, 563 F.3d 773, 775 n.2 (8th Cir. 2009). Post-*Glenn* cases are going both

ways. As best this Court can discern, the issue has to be evaluated case by case.

Discovery may well be needed in some instances, but this is not one of them. Brown's dated materials from other litigation do not establish any particularized basis for discovery in this case. Prudential's sworn papers say no claims manuals were used in evaluating Brown's claim; Prudential has acknowledged that it is both insurer and claims administrator; and the administrative record appears sufficient to permit a fair evaluation of Prudential's decision. The Court therefore sees no need for discovery. Brown's motion, *Document No. 137*, is denied. Her response to Prudential's motion for summary judgment is due by 7 November 2011.

So Ordered.



D.P. Marshall Jr.
United States District Judge

20 Oct. 2011